

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARY JANE M. HARRIS,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 98-106
	:	
v.	:	
	:	
HOLY REDEEMER HEALTH	:	
SYSTEM, INC.,	:	
	:	
Defendant.	:	

MEMORANDUM

BUCKWALTER, J.

September 24, 1998

Presently before this Court is Defendant's Motion for Summary Judgment (Docket No. 6) and Plaintiff's Cross-Motion for Summary Judgment (Docket No. 7), both pursuant to Fed. R. Civ. P. 56. The Court will assume that both parties are intimately familiar with the case and thus, will dispense with a recitation of the relevant facts.

I. DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

The record before the Court contains several disputed issues of fact sufficient to warrant denial of Defendant's request for summary judgment. Some, but not all, of the issues of concern to the Court include whether Plaintiff was qualified for any light duty position, whether she was eligible for a transfer to such a position, and whether there were potential positions open throughout the hospital proper. For example, while Plaintiff has testified as to how she may be qualified to perform the functions of a light duty position, it is unclear from the record that those

qualifications were insufficient for light duty work. In addition, while the light duty coordinator has testified that no positions to which Plaintiff could be transferred were available, it is unclear whether that assessment was made in the absence of an inquiry to persons with competent knowledge as to the availability of such positions, or even if such an inquiry was required or necessary. It is also unclear to the Court whether she is competent to speak on behalf of the entire hospital proper on this critical subject.

These and other issues evident in the record are central to Plaintiff's establishment of a prima facie case under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 et seq., and the Court is reluctant to grant summary judgment on the basis of this record. Accordingly, because there is in dispute a genuine issue, or genuine issues, of material fact, Defendant's request for summary judgment is DENIED.

II. PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT

In light of the disputed issues concerning Plaintiff's prima facie case identified by the Court above, Plaintiff's cross-motion must also be denied. Moreover, in cross-moving for summary judgment, Plaintiff has failed to meet its burden under Fed. R. Civ. P. 56 in at least two ways.

First, while Plaintiff ably responds to Defendant's assertion of undisputed facts, she makes no affirmative showing of her own that there are no genuine issues as to any material fact. Second, even though Defendant conceded that Plaintiff was disabled for purposes of its motion for summary judgment, Plaintiff must independently show in her moving papers that there is no dispute over her status as an individual with a disability and that this status falls

within the meaning of the ADA. Absent a satisfactory showing on these issues, Plaintiff has failed to demonstrate that she has established a prima facie case, let alone whether summary judgment could be granted as a matter of law. Accordingly, Plaintiff's request for summary judgment is also DENIED.

III. CONCLUSION

For the foregoing reasons, both motions for summary judgment are DENIED. An appropriate order follows.

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HOLY REDEEMER HEALTH	:	
SYSTEM, INC.,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this 24th day of September 1998, upon consideration of Defendant's Motion for Summary Judgment (Docket No. 6), Plaintiff's response thereto and Cross-Motion for Summary Judgment (Docket No. 7), Defendant's Reply Memorandum in Opposition to Plaintiff's Cross-Motion for Summary Judgment and in Further Support of Defendant's Motion for Summary Judgment (Docket No. 8), and Plaintiff's Supplement to Motion for Summary Judgment (Docket No. 9), it is hereby ORDERED that both motions are DENIED.

BY THE COURT:

RONALD L. BUCKWALTER, J.